

15A Am. Jur. 2d Clerks of Court § 46

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Clerks of Court

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V. Powers and Duties

B. Distinguishing Ministerial and Judicial Functions

§ 46. Judicial and quasi-judicial acts

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Clerks of Courts](#)  66

The judicial power of a court or judge generally may not be delegated to a court clerk,¹ and a clerk of a court may not exercise judicial power except when authorized by a constitutional or legislative provision.² The clerk's judicial authority is strictly limited within the terms of the statutory or constitutional provision conferring it.³ Where a clerk's function is judicial or quasi-judicial, the clerk may be immune from liability.⁴ Judicial acts include:

- the rendition of the judgment⁵
- the determination of claims for breach of duty, negligence, and fraud⁶
- the imposition of a fine or penalty,⁷ even where mandatory⁸

Certain acts, although partially judicial in nature, or quasi-judicial, may be performed by the clerk of the court, including:

- the issuance of warrants of arrest⁹
- the issuance of subpoenas¹⁰
- the issuance of summons¹¹
- the transmission of notice of appeal¹²
- the communication of court orders¹³

The clerk may engage in the appointment of guardians, after the court's adjudication of an incompetency,¹⁴ but not the taking of an affidavit in a criminal proceeding,¹⁵ or the continuation of a contested adoption proceeding.¹⁶

Observation:

In one jurisdiction, a clerk for the state's highest court has the statutory authority to give an opinion on any question of the interpretation of any rule of administration promulgated by the court,¹⁷ while in other jurisdictions, a clerk of court, as a purely ministerial officer, has no discretion to interpret rules and statutes.¹⁸

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Footnotes